

AMENDED IN SENATE MAY 25, 2004

AMENDED IN SENATE MAY 10, 2004

AMENDED IN SENATE MARCH 26, 2004

SENATE BILL

No. 1781

Introduced by Senator Knight

February 20, 2004

An act to add Chapter 6.5 (commencing with Section 12660) to Part 2 of Division 11 of the Health and Safety Code, and to add Section 12302.5 to the Penal Code, relating to pyrotechnic operators.

LEGISLATIVE COUNSEL'S DIGEST

SB 1781, as amended, Knight. Pyrotechnic operators.

Existing law provides for the licensing and oversight of pyrotechnic operators in the state, according to specified criteria. The State Fire Marshal is required to adopt regulations with respect to the licensing of pyrotechnic operators.

~~This bill would state the intent of the Legislature to enact legislation to consolidate all regulation and licensure of pyrotechnic operators under the State Fire Marshal, and to require pyrotechnic operators to cover all costs associated with any background check applicable to those operators.~~

Existing law provides for the regulation of the sale, purchase, rental, lending, possession, transportation, storage, or use of, or manufacture, importation or exportation of, destructive devices, defined to include flamethrowing devices, by the Department of Justice.

This bill would provide that the provisions of law governing destructive devices do not apply to the possession or use of a flamethrowing device by the holder of a special effects pyrotechnic

operator's license first or second class issued by the State Fire Marshal, for purposes related to the production of theatrical, television, motion picture, or video productions, or entertainment events. It would require the State Fire Marshal to adopt regulations governing the possession and use of flamethrowing devices in this regard.

The bill would require a pyrotechnic operator subject to these provisions to, on an annual basis, submit an application to the State Fire Marshal for an endorsement, or renewal of an endorsement, for the possession and use of flamethrowing devices for these purposes, and to request, and pay any associated fees for, a background check from the Department of Justice, as part of the application. It would require the Department of Justice to perform the background check and report the results to the State Fire Marshal, and authorize the State Fire Marshal to endorse, or renew an endorsement of, the pyrotechnic operator's license if certain requirements are met. It would require the State Fire Marshal to deny or revoke the endorsement or renewal if the requirements are not met, and to seize any flamethrowing device in the possession of the pyrotechnic operator. It would also authorize the State Fire Marshal to impose fees in amounts sufficient to cover the costs incurred in the administration and enforcement of these provisions.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 ~~SECTION 1. — (a) It is the intent of the Legislature to enact~~
 2 *SECTION 1. Chapter 6.5 (commencing with Section 12660)*
 3 *is added to Part 2 of Division 11 of the Health and Safety Code, to*
 4 *read:*

5
 6 *CHAPTER 6.5. FLAMETHROWING DEVICES*
 7

8 *12660. (a) The State Fire Marshal shall adopt regulations*
 9 *governing the possession and use of flamethrowing devices, as*
 10 *described in paragraph (7) of subdivision (a) of Section 12301 of*
 11 *the Penal Code, by the holder of a pyrotechnic operator's license*
 12 *first or second class issued pursuant to Section 12578, for*
 13 *purposes related to the production of theatrical, television, motion*
 14 *picture, or video productions, or entertainment events.*

1 ***(b) The regulations adopted pursuant to subdivision (a) shall***
2 ***be similar to regulations adopted by the Department of Justice***
3 ***relating to the possession and use of destructive devices under***
4 ***Chapter 12.5 (commencing with Section 970) of Division 1 of Title***
5 ***11 of the California Code of Regulations.***

6 12661. ***(a) A pyrotechnic operator subject to this chapter***
7 ***shall, on an annual basis, submit an application to the State Fire***
8 ***Marshal, in the form required by the State Fire Marshal, for an***
9 ***endorsement, or renewal of an endorsement, authorizing the***
10 ***possession or use, or both, by the licensed pyrotechnic operator of***
11 ***a flamethrowing device for purposes related to the production of***
12 ***theatrical, television, motion picture, or video productions, or***
13 ***entertainment events.***

14 ***(b) As part of the application for endorsement, the applicant***
15 ***shall request a background check from the Department of Justice***
16 ***and pay any fees associated with the background check.***

17 ***(c) The Department of Justice shall perform the background***
18 ***check and report the results to the State Fire Marshal.***

19 ***(d) If the background check is returned showing no felonies and***
20 ***if the applicant is not a person described in paragraph (2) or (3)***
21 ***of subdivision (b) of Section 12305 of the Penal Code, the State***
22 ***Fire Marshal may endorse, or renew an endorsement of, the***
23 ***pyrotechnic operator's license.***

24 ***(e) (1) If the background check is returned showing a***
25 ***conviction for a felony or if the applicant is a person described in***
26 ***paragraph (2) or (3) of subdivision (b) of Section 12305 of the***
27 ***Penal Code, no endorsement shall be made or renewed, and any***
28 ***existing endorsement shall be revoked. Any flamethrowing device***
29 ***in the possession of a pyrotechnic operator whose endorsement or***
30 ***renewal has been denied or revoked shall be seized by the State***
31 ***Fire Marshal.***

32 ***(2) An applicant whose endorsement or renewal has been***
33 ***denied or revoked pursuant to this subdivision shall be entitled to***
34 ***a hearing conducted in accordance with Chapter 5 (commencing***
35 ***with Section 11500) of Part 1 of Division 3 of Title 2 of the***
36 ***Government Code.***

37 ***(f) The State Fire Marshal may impose fees upon applicants in***
38 ***amounts sufficient to cover the costs incurred in the administration***
39 ***and enforcement of this chapter.***

40 **SEC. 2. Section 12302.5 is added to the Penal Code, to read:**

1 12302.5. *This chapter does not apply to the possession or use*
2 *of a flamethrowing device, as described in paragraph (7) of*
3 *subdivision (a) of Section 12301, by the holder of a special effects*
4 *pyrotechnic operator's license first or second class issued*
5 *pursuant to Section 12578 of the Health and Safety Code, for*
6 *purpose related to the production of theatrical, television, motion*
7 *picture, or video productions, or entertainment events.*
8 ~~legislation to consolidate all regulation and licensure of~~
9 ~~pyrotechnic operators under the State Fire Marshal.~~
10 ~~(b) It is the further intent of the Legislature to enact legislation~~
11 ~~to require pyrotechnic operators to cover all costs associated with~~
12 ~~any background check applicable to those operators.~~

